

610-78-01003

MEMORANDUM FOR: Deputy Director for Administration

FROM :
Associate General Counsel

SUBJECT : Congressional Approval of Amendments to
CIARDS Regulations

1. In the course of the coordination of an amendment to the CIARD regulation, HR 20-50, which has been in process for some time, the question of whether the amendments should be submitted to congressional committees for their approval has arisen. The Act, in section 201(a), authorizes the Director to prescribe rules and regulations for the establishment and maintenance of the System, "such rules and regulations to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate." President Johnson issued a statement when he approved the legislation stating that he regarded this provision as an unconstitutional intrusion into the powers of the executive branch, but because he regarded the legislation as meritorious he would approve it. He would "treat this provision as a request for consultation...and should ask the Director to comply with it on that basis." The original regulations were furnished and the chairmen and ranking minority members, by letters, approved them.

2. The regulations have been amended a number of times through the years, but I believe no amendments have been furnished the committees under the provisions of section 201. It was at least the informal opinion of John Warner when he was Deputy General Counsel and General Counsel that the Act did not require submission of amendments to regulations. Tony Lapham believes it would be desirable as a matter of policy to furnish these amendments to the committees without regard to whether the statute requires committee approval before they become effective. It is our understanding also that in conjunction with your recent testimony assurances were given, at least to the staffers of the House Committee, that amendments would be furnished. See note to me of 6 March 1978, attached. There is the additional argument in favor of submission that if in the event of amendments contemplated by the Agency which might be controversial or arouse criticism on the Hill it would be better to face that question in advance rather than after the fact.

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It is our suggestion, therefore, that we adopt the policy of furnishing to the congressional committees copies of any new amendments to the CIARDS regulations prior to final approval by the DDA or the Director, as the case may be.

3. It will be noted that section 201 requires that the regulations go to the chairmen and ranking minority members of the Armed Services Committees. These Committees of course no longer have jurisdiction over the Agency and intelligence matters. In view of this contradiction between the statute and committee jurisdictions and in order to maintain consistency with President Johnson's position it is suggested that any submission to the Select Intelligence Committees carefully avoid any statement or indication that the statute requires submission.



Attachment

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